

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO. 2596 OF 2018

Sandesh Prakash Moprekar

..Applicant

v/s.

The State of Maharashtra .

..Respondents

Mr. D.D.Rananaware for the Applicant.

Ms. Pallavi Dabholkar, APP for the State.

CORAM : ANUJA PRABHUDESSAI,J.

DATED : OCTOBER 06, 2018.

P.C.

1. This is an application for bail filed under Section 439 Cr.P.C. by the aforesaid applicant, who has been arrested in Crime No. 222 of 2018 registered at Waduj Police Station for offences under Section 363, 376, 452 of Indian Penal Code, 1860 and Section 4 and 6 of Protection of Children from Sexual Offences Act, 2012.

2. Heard Mr. Rananaware, the learned Counsel for the applicant and Ms. Dabholkar, the learned APP for the State. I have perused the records and considered the submissions advanced by the learned Counsels for the respective parties.

3. The aforesaid crime is registered pursuant to the FIR lodged by the mother of the prosecutrix who is about 17 years of age, and a child within the meaning of Section 4 and 6 of Prevention of Children from Sexual Offences Act. The FIR prima facie reveals that on 28th June, 2018, the applicant had dropped the prosecutrix to college. She did not return home, the first informant therefore suspected that she was kidnapped by an unknown person. She therefore lodged an FIR against unknown person for kidnapping her minor daughter.

4. In the course of the investigation, statements were recorded and the applicant herein was apprehended. The statement of the prosecutrix was also recorded. The prosecutrix claims that the applicant who is her cousin had committed rape on her on 17th April, 2018. Thereafter, on 28th June 2018 he had dropped her to college, and he had again come to the college and told her to accompany him. Her statement prima facie indicates that she had first traveled with the applicant to Waduj by ST bus, thereafter to Satara, and they proceeded to Mumbai, stayed in a rental room at Dadar for two days. From Dadar they went to Solapur, and then to Pandharpur. They stayed in a lodge at Pandharpur for a couple of days and then

returned to Solapur, and then again proceeded to Dahiwadi and thereafter to Oglewadi Karad. She claims that during this period from 28th June, 2018 till 5th July 2018, the applicant had forcible sexual intercourse with her.

5. The statement of the prosecutrix prima facie reveals that she has accompanied the applicant at different places and lived with him. She had not raised any alarm during this period. Hence, prima facie, her contention that the applicant had forcible sexual intercourse appears to be improbable. Be that as it may, the prosecutrix was a minor and having sexual relation with a minor with or without consent, is a statutory rape. The applicant is in custody since 6th July, 2018. The investigation of the case is concluded and the presence of the applicant is not longer required in custody. The applicant has no other criminal antecedents. Besides, the applicant is a student of 22 years of age and further detention will bring him in close contact with the other hardened criminals.

6. Considering the above facts and circumstances the application is allowed on following terms and conditions:-

- (i) The applicant is ordered to be released on bail on furnishing bail bond of Rs.50,000/- (Rupees Fifty Thousand Only) with one or two solvent sureties in the like amount;
- (ii) The applicant shall not reside within the jurisdiction of Waduj Police Station;
- (iii) The applicant shall provide his permanent as well as the address where he proposes to reside during pendency of the trial, and his contact details to the Investigating Officer and in the bail bond;
- (iv) The applicant shall not change his residential address without prior intimation to the Investigation Officer.
- (v) The applicant shall not interfere with the complainant or any other witnesses in any manner, or tamper with the evidence.

**Prasanna
Pradeep
Salgaonkar**

Digitally signed by
Prasanna Pradeep
Salgaonkar
Date: 2018.10.09
18:28:58 +0530

(ANUJA PRABHUDESSAI, J.)